Supreme Court, U. S.
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IN THE SUPREME COURT OF THE UNITED STATES

October Term. 1976
No. 76-733

JOHN E. KALIN, Petitioner

v.

N. E. YOUNGBLOOD, ET. AL.,

Respondents.

On Petition for Writ of Certiorari to the Court of Appeal for the Second Appellate District of the State of California.

PETITIONER'S REPLY BRIEF

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PETITIONER'S REPLY BRIEF

1. INTRODUCTION: A dominant theme emerging early in respondents' brief is the continuation of their unsupported and unsupportable attack upon the petitioner in his pro se status. The absurdity of their attack is best illustrated in their letter to Justice Rehnquist of this Court dated October 4, 1976. What more can petitioner say than he has stated in his reply letter dated October 6, 1976? Both letters in copy form are attached at the end of this brief.

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2. RESPONDENTS' BRIEF IS UNSTABLE IN LANGUAGE USAGE; RUNS RAMPANT IN SPECULATIONS; AND LACKS DEVELOPMENT IN AN ACCEPTABLE AND KNOWN FORM TO THE EXTENT THAT THE FOLLOWING GENERAL COMMENTS ARE MADE IN REPLY:

A. Throughout the brief "failed to appear" and "refused to appear" are used interchangeably in an attempt to describe petitioner's absence from trial. They are two vastly different concepts. As such respondents' brief is difficult to decipher. The manner in which respondents use the English language one would be forced to conclude that they would describe a man who suffered a fatal heart attack on his way to trial as a man who "refused to appear" in the courtroom!

B. On page 2. respondents assert that the trial court was left with no choice, but to dismiss the action. However, on page 5. they modify their unpersuasive assertion by stating that the trial court was left with very little choice. No choice and very little choice are also two different concepts. One is complete and the other has alternatives. Here again, respondents demonstrate their own lack of conviction. As attorneys, represented by attorneys, respondents reflect a severely limited behavioral flexibility that puts into question not only their sincerity, but their exposure to legal procedures.

C. On page 3. respondents have now changed their concept of the trial court's statement regarding "pro pers" and the California courts. What was a "well settled proposition of law" in their brief to the appellate court [page 11 of that brief now included in the record to this Court] now becomes a "theoretical position" accompanied

by the assertion that the opposite is actually practiced. Petitioner wonders how would they know? Petitioner further submits that the trial court's incredible statement must be related to the trial transcript where no doubt is left as to its meaning and where the meaning remains fixed and stable.

D. On page 4. the speculations run rampant. As speculations they pose rhetorical questions regarding the nature and function of an attorney. How would respondents describe the conduct of an attorney who uses a deficiently written complaint and provides no proof so that the trial judge is forced to dismiss the case pursuant to a motion to dismiss based on a demonstrated lack of proof? Petitioner respectfully submits, the same way you would describe a medical doctor who amputates the wrong hand.

E. Continuing on page 4. wherein respondents attempt to give medical qualifications to the trial judge, petitioner submits on what basis does a trial judge make a medical judgment based solely on non-medical procedures? Petitioner further submits, would respondents as attorneys, and also their attorneys, ever accept such a judgment from a trial judge? Judgments such as respondents discuss on pages 4 and 6 of their brief are the foundation of judical misconduct pursuant to California law and are covered in petitioner's application.

F. On page 6. wherein respondents charge that petitioner's interpretation of the word "abandonment is sophmoric" based on case citation in criminal law, property, etc., clearly points out how strained the application of the word is to petitioner in his civil case by respondents and the trial court. As strained as the word abandonment

is to the facts of petitioner's case, so is the case cited as supportive for respondents. And a 1939 case at that! Respondents clearly cannot reconcile the elements of abandonment with the facts of petitioner's circumstances. As previously stated, respondents make a travesty of the plain meaning of the word abandonment.

G. The remainder of the brief is not worthy of comment. Respondents attempt to equate a ruling favorable to petitioner to an act of lienency by the court. Many of their motions should never have been made in the first instance since they were clearly obstructive in nature and purpose. Their verbiage lacks proper and acceptable development and form. As for the footnote on page 8. respondents again lack the necessary information to make intelligent statements. Their information is like their letter to this Court attached below. Ignornace normally precludes action by intelligent individuals. As cited, it obviously does not deter respondents.

3. CONCLUSION: Respondents' brief cannot be taken literally. Statements lack supportive references and information. The brief lacks proper development in any known acceptable form. Respondents' attempt to state as fact information and concepts where they have no first hand knowledge and even where they could not possess any knowlege on a first hand basis. Much of what they say lacks pertinence. Further, much of what they attempt to assert to this Court, they would hardly apply to their own legal practices. Petitioner concludes by saying that respondents' letter, attached herein, illustrates the merit of respondents' position and argumentation before this Court, and when coupled with the recognition that their co-respondent

Youngblood has not responded in any fashion to these proceedings, petitioner submits that his application should be granted.

Respectfully submitted,

John E. Kalin, Petitioner Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on December 29, 1976, copies of the foregoing were mailed by United States mail, postage prepaid to the following: Brill, Hunt, DeBuys & Burby, 3055 Wilshire Blvd., Los Angeles, Calif. 90010; Clerk, Court of Appeal, 3580 Wilshire Blvd., Los Angeles, Calif. 90010; Ervin M. Roeder, 8732 Sunset Blvd., Los Angeles, California 90069.

John E. Kalin, Petitioner Pro Se

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OF COUNSEL
PETER BURROWS

October 4, 1976

Mr. Justice William H. Rehnquist
United States Court House
312 North Spring Street, 16th Floor
Los Angeles, California 90012

Re: John E. Kalin v. Youngblood, et al.

Dear Mr. Justice Rehnquist:

I have reviewed the application of Petitioner John E. Kalin for an extension of time within which to file a Petition for Writ of Certiorari. On behalf of defendants George M. Goffin and Crowley & Goffin it is respectfully submitted that this application be denied.

This matter was reviewed in the California District Court of Appeal and the judgment against Mr. Kalin was affirmed on May 26, 1976. Although Mr. Kalin filed a Petition for Rehearing in the Court of Appeal he never sought review by the California Supreme Court. Therefore, even though Mr. Kalin claims that constitutional questions exist, he never sought to have these questions reviewed by the California Supreme Court.

Mr. Kalin's request for an extension appears to be based on the fact that he lives too far from a law library to be able to submit his Petition for Certiorari within the time prescribed by the Supreme Court Rules. In essence, Mr. Kalin is claiming, once again, that he is entitled to special consideration because he is appearing in propria persona.

It is the position of George M. Goffin and Crowley & Goffin that Mr. Kalin has not made an adequate showing to entitle him to the extension that he is requesting. Defendants urge the Court to deny the application.

Very truly yours,

Michael T Fox

MICHAEL T. FOX

RECEIVED OCT 5 1976

MTF:kmw

cc: John E. Kalin
Ervin M. Roeder

[RESPONDENTS' LETTER TO THIS COURT]

October 6, 1976

Mr. Justice William H. Rehnquist
Supreme Court of the United States
Washington, D. C. 20543

Re: John E. Kalin v. N. E. Youngblood, et al., A-264

Dear Mr. Justice Rehnquist:

Reference is made to the letter from the law firm of Brill, Hunt, DeBuys, & Burby, dated October 4, 1976, requesting that you deny my application for an extension of time in which to file a petition for a writ of certiorari. A copy of that letter is attached for your convenience. Further reference is made to your order granting my application for an extension of time, dated September 30, 1976, and the transmittal letter signed by Mr. Peter K. Beck, Assistant Clerk, dated October 1, 1976.

Mr. Fox states in his letter that I never sought review by the California Supreme Court. The basis of this statement is unknown to the petitioner; especially, as he reviews his file and notes that the firm of Brill, Hunt, DeBuys, & Burby filed an "ANSWER TO PETITION FOR HEARING IN THE SUPREME COURT OF THE STATE OF CALIFORNIA" in this matter on or about July 15, 1976, with copies mailed to all concerned parties. Since they recently attempted to move in the local courts for costs, there can be no doubt about them being notified by the Supreme Court of California. Further, it is an inescapable observation to make that their "contrived ignorance" of the facts of the case inherently carries a criticism of the procedures used by this Court. As the trial transcript of the trial will show, they are not at all hesitant to express criticism of upper courts

The letter then proceeds to paraphrase only one of the grounds that petitioner states in his application and one that is hardly paramount although it is appreciable in its support. This paraphrase is then incredibly re-translated into what appears to be the sole objective of their letter to you - to wit, a further attempt to derogate the petitioner in his propria persona status. How can a request for an extension of time, even coupled with their "contrived ignorance" of what action they took in this case and what action has been taken in this case, be equated with a request for special consideration once again? The action, but not the logic, is explicable only in the recognition that the opposition in this

[PETITIONER'S REPLY LETTER, Page 1.]

case, and the opposition in the underlying case when petitioner attempted to have the judgment vacated pursuant to California law, experienced success in playing upon the prejudices of certain judges regarding an inherent contempt for those individuals who are referred to as "pro pers". In the record to be designated for transmittal to this Court as part of the petition for the writ of certiorari, there is contained as part of the trial transcript the trial judge's statement: "And the court is well aware of the feelings of the courts of this state as to pro pers".

It is the position of the petitioner that defendants have exceeded the bounds of acceptable judgment and have demonstrated an imposition upon this Court and the petitioner. Both petitioner's experience with these defendants and the legal literature in this state have amply demonstrated that defendants in their legal capacity feel they are an entity unto themselves.

It should be noted that their letter to you and the date your order was received in Los Angeles are the same.

Very truly yours,

John E. Kalin

xc: Brill, Hunt, DeBuys, & Burby
Ervin M. Roeder

enc: as indicated.

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